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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/540,195	01/23/2006	Heinz Gutknecht	U 015818-8	2313				
140 LADAS & PARRY LLP 26 WEST 61ST STREET NEW YORK, NY 10023	7590 01/06/2010		<table border="1"><tr><td>EXAMINER</td></tr><tr><td>KNABLE, GEOFFREY L</td></tr></table>		EXAMINER	KNABLE, GEOFFREY L		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

Office Action Summary

Application No.

10/540,195

Applicant(s)

GUTKNECHT, HEINZ

Examiner

Geoffrey L. Knable

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 and 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 3-12 and 17-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 defines that the calculating unit calculates band number and transfer distance "based on the center-to-center distance, the strip width and the breaker ply length." Dependent claims 6, 20 and 21 provide similar requirements. Upon further review, however it is not clear how this "center-to-center" distance is used to calculate the band number/transfer distance or even what this "center-to-center" distance is. In particular, the original disclosure first indicates that the cords are at a set or predetermined center-to-center distance in the strip (e.g. page 4, lines 12-14), this thus simply representing the selected cord pitch in the strip. Page 7, lines 1-12 however then refer to "increasing" the center-to-center distance. If however this is a set value for the cords in the strip (i.e. the cord pitch in the strip), it is not clear how it would be increased especially during the building of any given ply. Further, in view of applicant's arguments, the center-to-center distance is described as a distance between the cords *of two adjacent bands*, this however seemingly contradicting other portions of the specification and claims that indicate that the center-to-center distance is a set or predetermined value for the cords within each strip. These arguments (esp. page 8,

lines 3-6 of the 9/17/09 response) further suggest that "the present application provides a measuring unit for measuring, for example, the center-to-center distance between longitudinal cords of two adjacent bands." It is also argued that the center-to-center distance is monitored in real time (e.g. page 9, lines 11-13 of the 9/17/09 response). It however is not seen where the original disclosure describes that there is any measuring or real time monitoring of the center-to-center distance between cords of adjacent bands, it not even being clear how such a measurement is to be made given that the cords are presumably buried within the rubber of the strip. This thus further confuses the invention in regard to the meaning of the "center-to-center" distance and how it is to be used in the practice of the invention. It thus is not clear (1) whether the center-to-center distance is a distance between cords within a strip or is a distance between cords in adjacent strips; (2) whether this distance is set/predetermined or is variable during strip building; (3) how or whether this distance is measured or monitored in real time during the process; and (4) how the band number/transfer distance is calculated "based on" the center-to-center distance. The original disclosure is therefore not considered to describe the invention sufficiently to enable practice thereof without an undue burden of experimentation and/or speculation.

It is noted that the original disclosure seems to describe the center-to-center distance being used seemingly as simply a check on the calculated transfer distance to ensure that any spacing between bands (and thus the spacing between cords in the adjacent bands) is not excessive relative to the predetermined center-to-center distance within the strip (e.g. page 4, lines 22-28 of the specification). This however would not

be consistent with the invention as argued or the invention as claimed (to the extent that the calculation unit is read to require that the center-to-center distance is used as more than simply a check on the calculated transfer distance).

3. Claims 1, 3-12 and 17-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For essentially the same reasons to those noted above, the scope of what is meant by the "center-to-center distance" is indefinite and confusing.

In claim 1, line 20, no literal antecedent has been established for "the second transport direction".

Claims 3 and 6 depends from cancelled claim 2.

In claim 19, line 3, no antecedent has been established for "the second conveyor".

4. Claims 1, 3-12 and 20-22 are rejected under 35 U.S.C. 103(a) as obvious over Suda et al. (US 6,613,177) taken in view of at least one of [EP 619170 to Malin et al., JP 8-127083 to Yoshioka and JP 2000-159399 to Suda].

Suda et al. is applied for substantially the same reasons as set forth in the last office action. Because of the above noted ambiguities with respect to the center-to-center distance, it is difficult to make an accurate comparison with the prior art with respect to this requirement. In any event, as noted in the last office action with respect to claim 2 (now part of claim 1), a computing means is described by Suda et al. that calculates the number of strips required as well as the transfer distance/pitch - e.g. note

col. 3, lines 23-30, 46-53. A memory for strip width and ply length is thus implicit or certainly necessary and obvious. Given that cord pitch is one of the well known parameters that characterizes a tire ply material, provision of memory for the center to center distance (i.e. cord pitch) would have been obvious to fully characterize the strips. It likewise would have enabled a check to assure that the distance of the cords at the joint is not excessive when compared to the cord pitch, only the predicted and expected results being achieved. In other words, it is submitted that the ordinary artisan understands that one critical feature of the joint between adjacent bands is what the cord spacing will be at the joint, it being obvious to monitor/control any such joining operation to ensure that this spacing is suitable. EP '170 (esp. col. 10, lines 20+ and figs. 11-12 referring to the preferred spacing at the joint being equal to the cord spacing in the strip), JP '083 (esp. JPO abstract suggesting that the strips be joined such that the interval between cords 6A, 6B is controlled) and JP '399 (suggesting that the adjacent strips be joined such that the cords are at a desired predetermined interval - e.g. paragraph [0040] of machine translation) have been cited as evidence of the well known desire to control the joint between adjacent strips such that a cord center-to-center distance is controlled to be within limits. To take the cord center-to-center distance in the strip and/or at the joint into account in assessing the appropriate and desired relationship between the adjacent strips would therefore have been obvious and lead to only the expected and predictable results.

5. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda et al. (US 6,613,177) taken in view of at least one of [EP 619170 to Malin et al., JP 8-

127083 to Yoshioka and JP 2000-159399 to Suda] as applied above, and further in view of Hirano et al. (US 4,474,338) as applied in the last office action.

6. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda et al. (US 6,613,177) taken in view of at least one of [EP 619170 to Malin et al., JP 8-127083 to Yoshioka and JP 2000-159399 to Suda] as applied above, and further in view of Mancini et al. (US 2002/0062908) as applied in the last office action.

7. Applicant's arguments filed 9/17/2009 have been fully considered but they are not persuasive.

The arguments stress the claimed reference to the center-to-center distance and especially the measurement and real time monitoring thereof but as noted in the new 35 USC 112 rejections above, the invention in this regard is not adequately described such that the invention is enabled without an undue burden of speculation and/or experimentation. Further, to the extent that these requirements are simply assuring that the cord spacing at the joints are sufficiently correlated with the center-to-center distance of cords in the remainder of the strips/ply, such would have been obvious as noted in the statement of rejection as well as the newly cited prior art. Since these rejections were not clearly necessitated by the amendments to the claims, this rejection has been made non-final.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/
Primary Examiner, Art Unit 1791

G. Knable
January 3, 2010